

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 VIVIAN JUNE LEMIEUX,

9 Plaintiff,

10 v.

11 NANCY A. BERRYHILL, Deputy
Commissioner of Social Security for
12 Operations,

13 Defendant.

Case No. C18-5436JLR

ORDER DENYING APPLICATION
TO PROCEED IN FORMA
PAUPERIS

14 Vivian June Lemieux applies to proceed *in forma pauperis* for an action seeking
15 judicial review of the administrative decision denying Ms. Lemieux's application for
16 Social Security benefits. (IFP Mot. (Dkt. #1).) For the reasons discussed below, the
17 court DENIES Ms. Lemieux's application to proceed *in forma pauperis* (Dkt. #1).

18 The district court may permit indigent litigants to proceed *in forma pauperis* upon
19 completion of a proper affidavit of indigence. *See* 28 U.S.C. § 1915(a). "To qualify for
20 *in forma pauperis* status, a civil litigant must demonstrate both that the litigant is unable
21 to pay court fees and that the claims he or she seeks to pursue are not frivolous."

22 *Ogunsalu v. Nair*, 117 F. App'x 522, 523 (9th Cir. 2004), *cert. denied*, 544 U.S. 1051
23 (2005). To meet the first prong of this test, a litigant must show that he or she "cannot

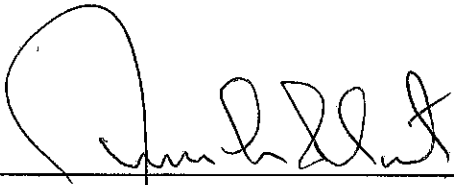
1 because of his [or her] poverty pay or give security for the costs and still be able to
2 provide himself [or herself] and dependents with the necessities of life.” *Adkins v. E.I.*
3 *DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948) (internal alterations omitted).

4 Ms. Lemieux has not shown that she is unable to pay the full filing fee to proceed
5 with this lawsuit. Ms. Lemieux does not identify any monthly expenses that she incurs,
6 and states that she has no dependents. (IFP Mot. at 2.) She states that she has \$500.00 in
7 a checking account, and \$17,000.00 in a savings account. (*Id.*) She also states that she
8 received \$25,000.00 from her mother’s estate in the last twelve months. (*Id.* at 1.) Ms.
9 Lemieux’s only explanation for why she cannot pay the filing fee is that she is homeless
10 staying with relatives, and plans to use the money she has “for housing.” (*Id.* at 2.)
11 Based on the information provided, the court finds Ms. Lemieux has failed to
12 demonstrate that she “cannot because of [her] poverty pay or give security for the costs
13 and still be able to provide [herself] . . . with the necessities of life.” *See Adkins*, 335
14 U.S. at 339 (internal alterations omitted). Ms. Lemieux may reapply to proceed *in forma*
15 *pauperis*, however, if her circumstances change.

17 Accordingly, the court DENIES Ms. Lemieux’s application to proceed *in forma*
18 *pauperis* WITHOUT PREJUDICE. Ms. Lemieux has 30 days from the date of this order
19 to pay the full \$400.00 filing fee or reapply to proceed *in forma pauperis* based upon
20 changed circumstances. If the court does not receive the filing fee or a new application
21 within 30 days, the court will dismiss this action WITHOUT PREJUDICE.

22
23 ///

1 DATED this 5th day of June, 2018.

2
3
4 
5 JAMES L. ROBART
6 United States District Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20